

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

DIMAS CUADRADO,

Plaintiff,

v.

9:14-CV-1293
(DNH/CFH)

BRUEAULT, Correction Officer, Cocksackie Correctional
Facility,

Defendant.

APPEARANCES:

DIMAS CUADRADO
13-A-3993
Plaintiff, pro se
Great Meadow Correctional Facility
Box 51
Comstock, NY 12821

HON. ERIC T. SCHNEIDERMAN
Attorney General for the State of New York
Attorney for Defendant
Litigation Bureau
The Capitol
Albany, NY 12224

RACHEL M. KISH, ESQ.
Ass't Attorney General

DAVID N. HURD
United States District Judge

DECISION and ORDER

Pro se plaintiff Dimas Cuadrado brought this civil rights action pursuant to 42 U.S.C. § 1983. On March 17, 2015, the Honorable Christian F. Hummel, United States Magistrate Judge, advised by Report-Recommendation that defendant's motion to dismiss pursuant to Federal Rule of Civil Procedure 12(b)(6) be granted. Plaintiff timely filed objections to the

Report-Recommendation.

Based upon a de novo review of the portions of the Report-Recommendation to which plaintiff objected, the Report-Recommendation is accepted and adopted in all respects. See 28 U.S.C. § 636(b)(1).

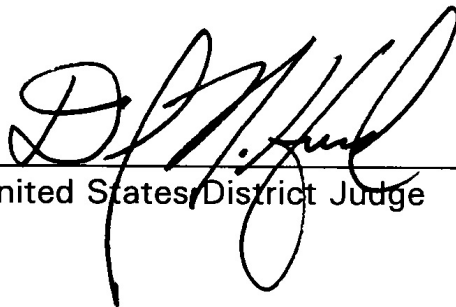
Therefore, it is

ORDERED that

1. Defendant Brueault's motion to dismiss is GRANTED;
2. To the extent plaintiff asserts claims against defendant Brueault in his official capacity, those claims are DISMISSED WITH PREJUDICE;
3. All remaining claims are DISMISSED WITHOUT PREJUDICE based on plaintiff's failure to fully exhaust administrative remedies;
4. The Central Office Review Committee ("CORC") is directed to render a decision on plaintiff's pending grievance within thirty days of the date of this Decision and Order, that is, by May 8, 2015;
5. If plaintiff does not receive a decision from the CORC by May 8, 2015, administrative remedies may be deemed unavailable to him and he may therefore be excused from exhausting;
6. In the event plaintiff does not receive a decision from the CORC by May 8, 2015, he may refile this suit indicating such;
7. In the event plaintiff does receive a decision from the CORC by May 8, 2015, he may refile this suit indicating such; and
8. The Clerk is directed to serve a copy of this Decision and Order upon the parties in accordance with the Local Rules.

IT IS SO ORDERED.

Dated: April 8, 2015
Utica, New York.



United States District Judge